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Approved For Release 2004/03/11 : CIA-RDP80M00165A002200050002-4
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

OGC 77-1426
3 March 1977

77-1426-33

ILLEGIB

The Honorable Robert J. Lipshutz
Counsel to the President
The White House
Washington, D. C. 20500

Dear Mr. Lipshutz:

At hearings before the Senate Select Committee on Intelligence on 23 June 1976, relating to the nomination of Mr. Knoche to be Deputy Director of Central Intelligence, the following exchange took place:

The Chairman [Senator Inouye]. Under Executive Order 11905, the General Counsel and the Inspector General are required to report to the Intelligence Oversight Board on activities that raise questions of legality and propriety. They must report allegations involving such activities and the results of their investigations. They are also required to report any instance where they are instructed not to make such reports.

Will you instruct the General Counsel and the Inspector General to provide to this committee similar reports to aid this committee in its oversight function?

Mr. Knoche. Yes, sir, I will.

The Chairman. At present the General Counsel is required to refer to the Department of Justice allegations that activities by CIA employees violate Federal law. In order to assist the committee in its oversight role will you instruct the General Counsel to notify the committee when and if such a referral takes place?

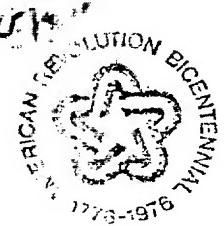
Mr. Knoche. Yes, sir, I will.

Pursuant to these commitments, and after a long period of negotiations involving consultations with your predecessor, Mr. Buchen, and with President Ford, a reporting procedure was established. That procedure is described in Mr. Knoche's letter to Chairman Inouye, dated 21 January 1977, a copy of which is enclosed.

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As you will note, the agreed procedure calls for reports to be made to the Committee, through its Staff Director, within a month after reports have been made to the Intelligence Oversight Board (IOB), by the General Counsel and the Inspector General of the CIA, pursuant to Section 6(b) of Executive Order 11905. These Agency officers submitted their last reports to the IOB on 1 February 1977, and similar reports to the Committee are therefore now due. The Inspector General and I have both concluded that our submissions to the Committee should cover all matters that we have respectively reported to the IOB since 30 June 1976. Copies of our proposed submissions are enclosed.

You will also note that the agreed procedure includes a proviso to the effect that General Counsel and Inspector General reports are to be furnished to the Committee "unless the Agency is instructed to the contrary by the President." In light of that proviso, both the Inspector General and I consider it appropriate to make copies of our intended reports available for your review in advance of their submission to the Committee, so that it can be determined whether the President desires to issue any instructions regarding the reports.

The Committee has been notified that the submissions of the enclosed reports have been deferred pending White House review.

Sincerely,

Anthony A. Lapham
General Counsel

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Enclosures

cc: Honorable David L. Aaron
Deputy Assistant to the President
for National Security Affairs

OGC:AAL:sin
Original - Addressee (3/4/77)

- 1 - DDCB
- 1 - IG
- 1 - OLC
- 1 - OGC Subj: Senate Select Committee on Intelligence ✓
- 1 - AAL signer
- 1 - Chrono

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77-61373

United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

March 3, 1977

IN REPLY PLEASE
REFER TO R#6693

Adm. Stansfield Turner
Director of Central Intelligence
Central Intelligence Agency
Washington, D. C. 20505

Dear Adm. Turner:

I am writing in response to Deputy Director Knoche's letter to me of 21 January 1977.

That letter set out his proposal for reports to the Senate Select Committee on Intelligence on CIA activities that raise questions of legality or propriety. While I believe the proposal provides a sensible basic procedure, there are several things about it which concern me.

Under Mr. Knoche's proposal, it is possible that the Senate Select Committee would never be informed of certain activities referred to the Intelligence Oversight Board. This would be the case if the President ordered the Central Intelligence Agency not to report such activities to the Congress. Under S. Res. 400 of the 94th Congress, 2d Session, the Senate expressed its sense that "the head of each department and agency of the United States would keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency". Given such a charge it is necessary for the Senate Select Committee to request that should the President order you not to report on a particular activity to the Senate Select Committee that you report that instruction to the Senate Select Committee. The Senate Select Committee and the Senate can then address its inquiries directly to the President.

I believe that the thirty day maximum withholding period described in the letter is a reasonable proposal. I assume, of course, that whenever possible reports would

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March 3, 1977
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be made before the thirty days elapsed. It is clear that certain matters, particularly those whose disclosure would be damaging or embarrassing, should be brought immediately to the attention of the Senate Select Committee. The Senate Select Committee's report on Micronesia will, I believe, make clear the Committee's belief that the failure to bring such matters as this to the attention of the Select Committee should not occur again; similarly, the Committee should be apprised in the future of questionable activities in a timely manner.

Under Mr. Knoche's proposal, the Committee would be provided a quarterly report on the number of possible criminal offenses reported to the Department of Justice and the number closed out by Department of Justice decisions to prosecute or not to prosecute. The Committee has no desire to impede Department of Justice investigations or to interfere with the rights of Americans. There may be in the future, however, instances where the Committee must be told of ongoing investigations, disclosure of which would be damaging or embarrassing. This has been done in the past and the Committee expects that it will continue to be done in the future, supplemented by the reports described in Mr. Knoche's letter. Disclosure of these investigations to the Committee need not be in elaborate detail; notification that an allegation has been referred to the Attorney General, with a brief description of the issue, will in most cases be sufficient. The Senate Select Committee or the Senate will then be able to address more detailed further inquiries to the Attorney General.

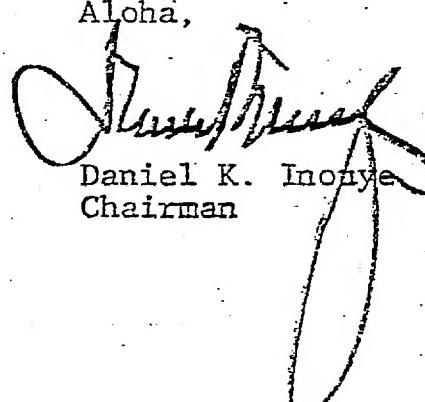
Finally, under Executive Order 11905, the Inspector General and General Counsel of the CIA are required to notify the Intelligence Oversight Board if their reports are blocked or if they are refused access to information. In order to meet the responsibilities mandated by S. Res. 400 to oversee the intelligence community, the Senate Select Committee has a similar requirement that both the Inspector General and the General Counsel report any such interference with their work to the Committee.

I believe that the suggested additions to Mr. Knoche's

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constructive proposal are in the best interests of the Central Intelligence Agency, the national intelligence community as a whole, and the Senate Select Committee on Intelligence.

Aloha,



Daniel K. Inouye
Chairman

Date: 4/10

TO: Admin
FROM: EA
SUBJECT:

REMARKS:

To you wish to
Schedule a Meetg
with Lepshetz to
bring up three issues?

Yes before or the
after VP on En?

Friday 1930, 6 May

ACTION

Executive Registry

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25 April 1977

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NOTE FOR:

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There are two matters that I would like Admiral Turner to raise with Bob Lipshutz:

(1) On 3 March I wrote Lipshutz explaining procedures that had been worked out with the SSCI, concerning the submission of reports to the SSCI comparable to the periodic reports that the IG and I submit to the IOB pursuant to Section 6(b) of E. O. 11905. A copy of that letter is attached. The procedures require White House review and approval before they can be implemented, but we still have no reaction from Lipshutz. Until we hear from him, we are at a standstill and cannot even respond to Senator Inouye's letter to Admiral Turner on this matter, dated 3 March, a copy of which is also attached.

(2) On 1 March Mr. Knoche wrote to Mr. Lipshutz, asking the latter to involve himself in the development of appropriate procedures for reporting intelligence agreements to the Congress under the Case Act, 1 U.S.C. §112b. At least in the Senate we are under pressure, as is the State Department, to consummate such procedures, but we cannot do so without clearance from the White House. A copy of Mr. Knoche's letter is attached.

Anthony A. Lapham

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Attachments

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Executive Register

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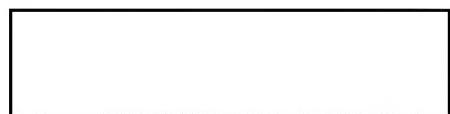
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OFFICE OF THE DIRECTOR

Date: 21 April

TO: Office of General Counsel
FROM: EA/DCI
SUBJECT:

REMARKS: If there are any items you wish
Admiral Turner to raise with Mr. Lipschutz, I
will set up a meeting.



Commander, U.S. Navy

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